

S/N 10/027,603

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Ferrara et al.	Examiner:	Huynh, Phuong N.
Serial No.:	10/027,603	Group Art Unit:	1644
Filed:	December 19, 2001	Docket No.:	11669.139USI1
Customer No.:	23552	Confirmation No.:	4344
Title:	EG-VEGF NUCLEIC ACIDS AND POLYPEPTIDES AND METHODS OF USE		

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**REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)**

Mail Stop Patent Ext  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants hereby request reconsideration of the patent term adjustment indicated in the Determination of Patent Term Adjustment mailed on December 13, 2006 for the above-identified application. This request for reconsideration is timely in accordance with 37 CFR 1.705(b), being filed prior to the payment of the issue fee.

**Statement of the Facts**

1. On December 13, 2006, the Patent Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) stating that the patent term adjustment to date is 0 days.
2. As of March 9, 2006, PAIR shows that the Patent Office caused a total of 230 days of delay, while Applicants caused 267 days of delay, resulting in a Patent Term Adjustment (PTA) of 0 days.
3. PAIR indicates 76 days of Applicant delay stemming from a Notice to File Missing Parts mailed on by the Patent Office February 7, 2002. The 76 days of Applicant

delay is calculated from February 7, 2002 to July 22, 2002. Applicants submit the 76 days of Applicant delay calculated from February 7, 2002 is an error.

4. A Notice to File Missing Parts was mailed by the Patent Office on February 7, 2002. Applicants filed a response to the Notice to File Missing Parts on April 29, 2002. The response was received by the Patent Office on May 6, 2002, within the 3 month period from the date the Notice was mailed.

5. On May 31, 2002, the Patent Office mailed a Withdrawal of Previously Sent Notice indicating that the Notice to File Missing Parts mailed February 7, 2002 was sent in error and was withdrawn. A Notice to Comply with Sequence Listing Requirements was enclosed with the Withdrawal of Previously Sent Notice. The Withdrawal of Previously Sent Notice indicated the time period for reply runs from the mail date of the corrected Notice, May 31, 2002.

6. On July 16, 2002, Applicants filed a response to the Notice to Comply with Sequence Listing Requirements, before the two month response deadline of July 31, 2002. The response was received by the Patent Office on July 22, 2002, eight days before the two month response deadline of July 31, 2002.

7. Since Applicants responded to the Notice to File Missing Parts and the Notice to Comply with Sequence Listing Requirements within the 3 month period from the mailing date of each Notice, the 76 day delay is in error. Applicant delay should be reduced by 76 days to 191 days. Applicants are therefore entitled to a Patent Term Adjustment of 39 days (230 days PTO delay - 191 days Applicant delay = 39 days of PTA).

8. Applicants submit that the present application is not subject to a terminal disclaimer.

9. Applicants respectfully request that the calculated term extension for U.S. Patent Application Serial No. 10/027,603 be corrected from 0 days to 39 days.

9. Applicants respectfully request that the calculated term extension for U.S. Patent Application Serial No. 10/027,603 be corrected from 0 days to 39 days.

10. If there are any outstanding issues or a need for any clarification on this matter, the Patent Office is invited to telephone the undersigned attorney.

Respectfully submitted,

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Date: March 9, 2006

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Eric E. DeMaster  
Reg. No.: 55,107  
EED:jrm